

E AND R AMENDMENTS TO LB 995

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 12-401, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 12-401 The mayor of any city having ~~less~~ fewer than
6 twenty-five thousand inhabitants, by and with the consent of the
7 council or a majority thereof, and the ~~chairman~~ chairperson of
8 the board of trustees of any village, by and with the consent
9 of the village board or a majority thereof, may appoint a board
10 of not fewer than three nor more than six members, to be known
11 as the cemetery board, from among the citizens at large of such
12 city or village, who shall serve without pay and shall have entire
13 control and management of any cemetery belonging to such city or
14 village. Neither the mayor nor any member of the council, nor
15 the ~~chairman~~ chairperson nor any member of the village board of
16 trustees may be ~~members~~ a member of the cemetery board. At the
17 time of establishing said such cemetery board, ~~two~~ approximately
18 one-third of the members shall be appointed for a term of one year,
19 ~~two~~ one-third for a term of two years, and ~~two~~ one-third for a
20 term of three years, and thereafter ~~two~~ members shall be appointed
21 ~~each year for a term~~ for terms of three years. Vacancies in the
22 membership of the board other than through the expiration of a term
23 shall be filled ~~in like manner as regular members of the board are~~

1 ~~appointed- for the unexpired portion of the term.~~

2 Sec. 2. Section 12-402, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 12-402 (1) The mayor and council or the board of
5 trustees, for the purpose of defraying the cost of the care,
6 management, improvement, beautifying, and welfare of such
7 cemeteries and the inhabitants thereof, may each year levy a tax
8 not exceeding five and two-tenths cents on each one hundred dollars
9 upon the taxable value of all the taxable property in such city
10 or village subject to taxation for general purposes. The tax shall
11 be collected and paid to the city or village as taxes for general
12 purposes are collected and paid to the city or village. All taxes
13 collected for this purpose shall constitute and be known as the
14 cemetery fund and shall be used for the general care, management,
15 improvement, beautifying, and welfare of such cemetery and the
16 inhabitants thereof. Warrants upon this fund shall be drawn by the
17 cemetery board and shall be paid by the city or village treasurer.
18 The city council or the board of trustees may issue a warrant from
19 the cemetery fund if a payment is due and the cemetery board is not
20 scheduled to meet prior to such due date to authorize the warrant.

21 (2) If the mayor and council or the board of trustees
22 sets aside the proceeds from the sale of lots as a perpetual fund,
23 the principal of the fund that is attributable to such proceeds, or
24 attributable to any money which has come to the fund by donation,
25 bequest, or otherwise that does not prohibit such use, may be used
26 for the purchase and development of additional land to be used
27 for cemetery purposes as long as no more than twenty-five percent

1 of such principal is so used in any fiscal year and no more than
2 thirty-five percent of such principal is so used in any period of
3 ten consecutive fiscal years.

4 (3) This section does not limit the use of any money that
5 comes to the city or village by donation, bequest, or otherwise
6 that is not designated to be credited to the perpetual fund or that
7 allows greater use for purchase or development of additional land
8 to be used for cemetery purposes.

9 Sec. 3. Section 12-805, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 12-805 The county board ~~may~~ shall expend money from the
12 general fund of the county for the care and maintenance of each
13 abandoned ~~and~~ or neglected cemetery. Such amount shall not exceed
14 one thousand dollars per cemetery in a calendar year. and Indian
15 burial ground as follows: (1) Not to exceed five hundred dollars
16 in any one year when the cemetery is totally abandoned; or (2) not
17 to exceed four hundred dollars in any one year when the cemetery
18 is partially abandoned. Such care and maintenance may include the
19 repair or building of fences and annual spraying for the control of
20 weeds and brush.

21 Sec. 4. Section 12-806, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 12-806 The county board may include in the budget for the
24 next fiscal year an item for care of abandoned ~~and~~ or neglected
25 cemeteries as provided in section 12-805.

26 Sec. 5. Section 12-807, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 12-807 The county board shall expend money from the
2 general fund of the county for the continuous preservation and
3 maintenance, including mowing, of an abandoned ~~and~~ or neglected
4 pioneer cemetery when petitioned to do so by thirty-five adult
5 residents of the county. The county board shall publish notice of
6 such petition in one issue of the official newspaper published and
7 of general circulation in the county at least ten days prior to the
8 day when the matter will be heard by the county board.

9 Sec. 6. Section 12-808, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 12-808 For purposes of sections 12-807 to 12-810, an
12 abandoned ~~and~~ or neglected pioneer cemetery shall be defined
13 according to the following criteria:

14 (1) Such cemetery was founded~~7~~ or the land upon which
15 such cemetery is situated was given, granted, donated, sold, or
16 deeded to the founders of the cemetery prior to January 1, 1900;

17 (2) Such cemetery contains the grave or graves of a
18 person or persons who were homesteaders, immigrants from a foreign
19 nation, prairie farmers, pioneers, sodbusters, first generation
20 Nebraskans, or Civil War veterans; and

21 (3) Such cemetery has been generally abandoned ~~and~~ or
22 neglected for a period of at least ~~twenty~~ five consecutive years.

23 Sec. 7. Section 12-810, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 12-810 Any county affected by sections 12-807 to 12-810
26 shall provide for at least one mowing annually of such cemetery
27 each year, and one of such mowings shall occur within a period

1 of two weeks prior to Memorial Day. Additional mowings shall be
2 at the discretion of the county board, and each additional mowing
3 may be subject to a public hearing at which the need for the
4 additional mowing shall be presented to the county board. Within
5 five years after maintenance and preservation of such cemetery
6 is commenced by such county, a historical marker giving the date
7 of the establishment of the cemetery and a short history of the
8 cemetery ~~shall~~ may be placed at the site of such cemetery. One
9 directional marker showing the way to such cemetery may be placed
10 on the nearest state highway to such cemetery.

11 Sec. 8. Section 12-1202, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 12-1202 The Legislature hereby finds and declares that:

14 (1) Human burial sites which do not presently resemble
15 well-tended and well-marked cemeteries are subject to a higher
16 degree of vandalism and inadvertent destruction than well-tended
17 and well-marked cemeteries;

18 (2) Although existing law prohibits removal, concealment,
19 or abandonment of any dead human body and provides for the care
20 and maintenance of abandoned ~~and~~ or neglected ~~Indian~~ cemeteries
21 ~~and burial grounds~~ and pioneer cemeteries, additional statutory
22 guidelines and protections are in the public interest;

23 (3) Existing law on cemeteries reflects the value placed
24 on preserving human burial sites but does not clearly provide equal
25 and adequate protection or incentives to assure preservation of all
26 human burial sites in this state;

27 (4) An unknown number of unmarked human burial sites

1 containing the remains of pioneers, settlers, and Indians are
2 scattered throughout the state;

3 (5) No adequate procedure regarding the treatment and
4 disposition of human skeletal remains from unmarked graves exists
5 to protect the interests of relatives or other interested persons;
6 and

7 (6) There are scientific, educational, religious, and
8 cultural interests in the remains of our ancestors and those
9 interests, whenever possible, should be served.

10 Sec. 9. Section 12-1204, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 12-1204 For purposes of the Unmarked Human Burial Sites
13 and Skeletal Remains Protection Act:

14 (1) Burial goods shall mean any item or items reasonably
15 believed to have been intentionally placed with the human skeletal
16 remains of an individual at the time of burial and which can be
17 traced with a reasonable degree of certainty to the specific human
18 skeletal remains with which it or they were buried;

19 (2) Human burial site shall mean the specific place
20 where any human skeletal remains are buried and the immediately
21 surrounding area;

22 (3) Human skeletal remains shall mean the body or any
23 part of the body of a deceased human in any stage of decomposition;

24 (4) Indian tribe shall mean any federally recognized or
25 state-recognized Indian tribe, band, or community;

26 (5) Professional archaeologist shall mean a person having
27 a postgraduate degree in archaeology, anthropology, history, or

1 a related field with a specialization in archaeology and with
2 demonstrated ability to design and execute an archaeological study
3 and to present the written results and interpretations of such a
4 study in a thorough, scientific, and timely manner;

5 (6) Reasonably identified and reasonably identifiable
6 shall mean identifiable, by a preponderance of the evidence, as to
7 familial or tribal origin based on any available archaeological,
8 historical, ethnological, or other direct or circumstantial
9 evidence or expert opinion;

10 (7) Society shall mean the Nebraska State Historical
11 Society; and

12 (8) Unmarked human burial shall mean any interment by
13 whatever means of human skeletal remains for which there exists
14 no grave marker, including burials located in abandoned ~~and~~ or
15 neglected cemeteries.

16 Sec. 10. Section 12-1401, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 12-1401 (1) The Nebraska State Historical Society shall
19 establish and maintain the Statewide Cemetery Registry. The
20 registry shall be located in the office of the Nebraska State
21 Historical Society and shall be made available to the public.
22 The purpose of the registry is to provide a central data bank
23 of accurate and current information regarding the location of
24 cemeteries, burial grounds, mausoleums, and columbaria in the
25 state.

26 (2)(a) Each city, village, township, county, church,
27 fraternal and benevolent society, cemetery district, cemetery

1 association, mausoleum association, and any other person owning,
2 operating, or maintaining a cemetery, pioneer cemetery, abandoned
3 ~~and or~~ neglected cemetery, ~~Indian burial ground~~, mausoleum, or
4 columbarium shall register with the Statewide Cemetery Registry.

5 (b) Except as provided in subdivision (c) of this
6 subsection, the registration shall include the following:

7 (i) The location or address of the cemetery, ~~burial~~
8 ~~ground~~, mausoleum, or columbarium;

9 (ii) A plat of the cemetery, ~~burial ground~~, mausoleum, or
10 columbarium grounds, including any lots, graves, niches, or crypts,
11 if available;

12 (iii) The name and address of the person or persons
13 representing the entity owning, operating, or maintaining the
14 cemetery, ~~burial ground~~, mausoleum, or columbarium;

15 (iv) The inception date of the cemetery, ~~burial ground~~,
16 mausoleum, or columbarium, if available; and

17 (v) If the cemetery, ~~burial ground~~, mausoleum, or
18 columbarium is abandoned, the abandonment date, if available.

19 (c) The information required in subdivision (b) of this
20 subsection regarding the operation and maintenance of a cemetery,
21 ~~burial ground~~, mausoleum, or columbarium prior to January 1, 2006,
22 shall be required only if such information is reasonably available
23 to the registering entity.

24 (d) The entity owning, operating, or maintaining the
25 cemetery, ~~burial ground~~, mausoleum, or columbarium may include
26 information regarding the history of the operation of the cemetery,
27 ~~burial ground~~, mausoleum, or columbarium.

1 (3) The entity owning, operating, or maintaining a
2 registered cemetery, ~~burial ground~~, mausoleum, or columbarium shall
3 update its entry in the registry every ten years following the
4 initial registration by the entity.

5 Sec. 11. Original sections 12-401, 12-806, 12-807,
6 12-808, 12-810, 12-1202, and 12-1204, Reissue Revised Statutes
7 of Nebraska, and sections 12-402, 12-805, and 12-1401, Revised
8 Statutes Cumulative Supplement, 2006, are repealed.

9 Sec. 12. The following section is outright repealed:
10 Section 12-806.01, Reissue Revised Statutes of Nebraska.